

REMARKS

Claims 18-37 are currently pending in the subject application and are presently under consideration. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments herein.

I. Rejection of Claim 22 Under 35 U.S.C. §112

Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Examiner contends that it is unclear how an image captured is already known to be a damaged good before the image is analyzed. Applicants' representative respectfully notes that claim 22 recites scanning optical signals that relate to at least one physical image of a damaged product. One example of an optical signal is a bar code (or an equivalent symbol), which is fully capable of including an indication that the product is damaged. Therefore, a person of ordinary skill in the art would appreciate that the applicants have clearly indicated the claimed subject matter. Accordingly, withdrawal of this rejection is respectfully requested.

II. Rejection of Claims 18-21, 23, 24 and 29-37 Under 35 U.S.C. §103(a)

Claims 18-21, 23, 24 and 29-37 are rejected under 35 U.S.C. §103(a) as being unpatentable over Browning (US 6,707,581 B1) in view of Manchester (US 2004/0201595 A1). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Browning and Manchester, individually or in combination, do not teach or suggest all the claim aspects of the subject claims.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See MPEP §706.02(j). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on

applicant's disclosure. *See In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The subject invention relates to systems and methods for facilitating data capture and/or display of data to users (*See Abstract*). In particular, a mobile scanning terminal system is provided that can facilitate image capture for analysis. Additionally, the mobile scanning terminal system provides for image capture corresponding to the inversion and/or rotation of a display (*See Specification pg. 10, ln. 31 and pg. 11, ln. 1-11*). To this end, amended independent claim 18 (and similarly amended independent claims 29 and 37) recites *an image capture component that captures optical signals related to a product, **the capture corresponds to inversion or rotation of the system***. Browning and Manchester, alone or in combination, fail to teach or suggest such claimed aspects.

Browning relates to a handheld PDA or the like that scans text or a barcode and converts the scanned image into alphanumeric text or other computer-readable information. An information retrieval agent then searches for relevant information on the Internet or other network (*See col. 2, ln. 38-49*). However, as acknowledged by the Examiner, Browning fails to teach or suggest orienting images on a display (*See Office Action dated March 1, 2007, pg. 5*). Moreover, Browning is silent with regard to *an image capture component that captures optical signals related to a product, **the capture corresponds to inversion or rotation of the system***. Examiner contends that in order to correctly receive the correct information related to the barcode, the method/system of Browning must be able to rotate/invert the barcode when the user is holding the handheld scanner at odd angles or even upside down, and thus it can capture the correct orientation of the barcode regardless of how the user is holding the handheld scanner. Applicants' representative respectfully disagrees with this statement. Examiner cites no passage of Browning describing altering orientation, and simply concludes that in order to function, it must be able to perform this task. Moreover, Browning indicates that the scanner is in fact quite unable to perform the task of re-orientation. Browning allows a user to reject a scanned image if it is read unreliably because *the scanner was skewed relative to a line of printed text* (*See col. 3, l. 57*).

In order to compensate for the aforementioned deficiencies of Browning, Examiner has offered Manchester. Manchester relates to a method for orienting a display image which

includes sensing at least one characteristic of an object and determining the orientation of the object from at least one of the sensed characteristics (*See* paragraph 5). However, Manchester does not teach or suggest *an image capture component that captures optical signals related to a product*, let alone *the capture corresponds to inversion or rotation of the system* as recited in the subject claims.

The claimed subject as recited in the subject claims can provide image capturing, thereby enabling image analysis. Additionally, the image capture can correspond to the inversion and/or rotation of the system. For example, a user A can capture an image B while the mobile scanning terminal is upside down. The image capture can correspond to the inversion and/or rotation of the system. Thus, if user A sends the captured image B to another entity, the image B will be seen as right-side up, regardless of the orientation of the mobile scanning terminal when image B was captured (*See* Specification pg. 11, ll. 5-11). Manchester fails to teach or suggest such aspect as claimed.

In view of at least the foregoing, it is readily apparent that Browning and Manchester, alone or in combination, do not teach or suggest the subject invention as recited in independent claims 18, 29 and 37 (and associated dependent claims). Accordingly, this rejection should be withdrawn.

III. Rejection of Claim 22 and 25 Under 35 U.S.C. §103(a)

Claim 22 is rejected under 35 U.S.C. §103(a) as being unpatentable over Browning in view of Manchester, and further in view of Hoon *et al.* (US 2002/0186878). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Browning, Manchester and Hoon *et al.*, individually or in combination, do not teach or suggest all the claim limitations set forth in the subject claims. In particular, Wilz *et al.* does not make up for the aforementioned deficiencies of Browning and Manchester with respect to independent claim 18 (from which claim 22 and 25 depend). Therefore, the subject invention as recited in claims 22 and 25 is not obvious over the combination of Browning, Manchester and Hoon *et al.* Thus, it is respectfully requested that this rejection be withdrawn.

IV. Rejection of Claim 26-28 Under 35 U.S.C. §103(a)

Claim 26-28 is rejected under 35 U.S.C. §103(a) as being unpatentable over Browning in view of Manchester, and further in view of Melaku *et al.* (US 2003/0144793 A1). It is submitted that this rejection should be withdrawn for at least the following reasons. Browning, Manchester and Melaku *et al.*, individually or in combination, do not teach or suggest all the claim aspects set forth in the subject claims. In particular, Melaku *et al.* does not make up for the aforementioned deficiencies of Browning and Manchester with respect to independent claim 18 (from which claim 26-28 depend). Accordingly, claim 26-28 is allowable for at least the same reasons discussed *supra*. Hence, this rejection should be withdrawn.

V. Rejection of Claims 26-28 Under 35 U.S.C. §103(a)

Claims 26-28 are rejected under 35 U.S.C. §103(a) as being unpatentable over Browning in view of Manchester, and further in view of Cardno (US 2004/0036712 A1). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Browning, Manchester and Cardno, individually or in combination, do not teach or suggest each and every element set forth in the subject claim. In particular, Cardno does not make up for the aforementioned deficiencies of Browning and Manchester with respect to independent claim 18 (which claims 26-28 depend from). Therefore, the subject invention as recited in claims 26-28 is not obvious over the combination of Browning, Manchester and Cardno. Thus, it is respectfully requested that this rejection be withdrawn.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [SYMBP165USA].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant's undersigned representative at the telephone number below.

Respectfully submitted,

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